

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

William E. Colon,	)	
	)	C/A No.: 2:04-cv-22294-MBS-RSC
Plaintiff,	)	
	)	
vs.	)	
	)	<b>ORDER</b>
Jo Anne Barnhart, Commissioner of	)	
Social Security,	)	
	)	
Defendant.	)	
	)	

Plaintiff William E. Colon alleges that she has been disabled since June 13, 2001, because of degenerative arthritis of both knees. Plaintiff filed an application for disability insurance benefits on April 15, 2002. Plaintiff's application was denied initially and upon reconsideration. Plaintiff requested a hearing before an administrative law judge ("ALJ"). The ALJ held a hearing on July 11, 2003. On February 19, 2004, the ALJ issued a decision that Plaintiff was not entitled to a period of disability or disability insurance benefits under sections 216(i) and 223, respectively, of the Social Security Act. The decision of the ALJ became the "final decision" of the Commissioner on September 3, 2004, after the Appeals Council determined that there was no basis for granting Plaintiff's request for review. Plaintiff thereafter brought the within action pursuant to 42 U.S.C. § 405(g), seeking judicial review of the "final decision" of the Commissioner.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Robert C. Carr for a Report and Recommendation. On April 29, 2005, the Magistrate Judge filed a Report and Recommendation in which he found that the record did not support the conclusion that the Commissioner carried her burden of showing that Plaintiff possessed vocational skills that were transferable to other work in the economy. The Magistrate Judge recommended that the Commissioner's decision be reversed and remanded for further

proceedings. Neither party filed objections to the Report.

The court is charged with making a *de novo* determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b). In the absence of objections to the Report and Recommendation, this court is not required to give any explanation for adopting the recommendation. Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

After a thorough review of the Report and the record in this case, the court adopts the Report and Recommendation and incorporates it herein by reference. Accordingly,

It is ORDERED that the within action be **reversed** under sentence four of §§ 205(g) and 1631(c)(3) of the Social Security Act, 42 U.S.C. §§ 405(g) and 1383(c)(3), and the case be **remanded** to the Commissioner for further proceedings consistent with this order and the Report and Recommendation.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
United States District Judge

Columbia, South Carolina

May 13, 2005.